IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 16125 of 1994

Between:

1 Billa Somi Reddy S/o. Ramchandra Reddy
r/o.Kamareddigudem Devaruppal Mandal, Warangal District.
2 Katta Mohan Reddy S/o. Kondal Reddy
r/o.Kamareddigudem Village, Devaruppula Mandal, Warangal District.
3 K. Ramchandra Reddy s/o. Raji Reddy
r/o.Kamareddigudem Village, Devaruppula Mandal, Warangal District.
4 K. Laxminarasimha Reddy S/o. Raji Reddy
r/o.Kamareddigudem Village, Devaruppula Mandal, Warangal District.

.....PETITIONERS

AND

1 The Collector Warangal District, Warangal.
2 Revenue Divisional Officer Warangal.
3 Land Acquisition Officer (MRO) Devaruppula, Warangal dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ order, or direction, more particularly one in the nature of a Writ of Mandamus declaring the actions of Respondents no.2 , and 3 in withdrawing the land acquisition proceedings in respect of the petitioners land after taking physical possession, as illegal and unconstitutional, and consequently direct the Respondents to complete the land acquisition proceedings, or in the alternative, if the action of the Respondents NO.2 and 3 in withdrawing the land acquisition proceedings in respect of the petitioners land is held valid, direct the Respondent No.1 to determine and pay the compensation to the Petitoners, and pass such other orders.

Counsel for the Petitioners: MR.V.HARI HARAN

Counsel for the Respondents No.1to 3: GP FOR REVENUE

The Court made the following Order:

W.P.No.16125 of 1994

This writ petition has been filed to declare the action of 2nd and 3rd Respondents in withdrawing the land acquisition proceedings in respect of the petitioners lands after taking physical possession as illegal and unconstitutional and consequently direct the respondents to complete the land acquisition proceedings, or in the alternative, if the action of the 2nd and 3rd respondents in withdrawing the land acquisition proceedings in respect of the petitioners land is held valid, direct the 1st respondent to determine and pay the compensation to the petitioners.

The grievance of the petitioner in the writ petition is that the respondents have taken physical possession of the land on 09-09-1986 to an extent of Ac.4-06 guntas in Survey Numbers 787/2, 790/2, situated at Devaruppula Mandal, Warangal district for the purpose of constructing a Mandal Complex of Devaruppula Revenue Mandal at Kamareddigudem village and the same was constructed over it. It is also the case of the petitioner that the 2nd respondent *vide* proceedings dated A/2819/89, dated 19-07-1991 informed the petitioners that out of Ac.4-06 Guntas an extent of Ac.2-33 Guntas were deleted from the acquisition proceedings. The 3rd respondent redelivered the possession of Ac.2-33 guntas to the petitioners and informed the same to them vide his proceedings in RC. No.LA/A/64/87 dated 26-09-1991.

The Revenue Divisional Officer, Warangal, who is the 2nd respondent, filed counter stating that the land bearing survey numbers 790 F.C.D and 787 admeasuring Ac.4-06 Guntas, which was offered by the petitioners voluntarily for construction of the said Mandal Complex building and the same was accepted and action was taken to initiate the Land Acquisition proceedings. It is further stated that the possession of the land was willingly delivered with their consent to the Mandal Revenue Officer, Deveruppula on 09-09-1986. It is also stated that the possession of the land was

delivered prior to initiation of Land Acquisition proceedings and prior to publication of notification under Section 4(1) of the Land Acquisition Act. When the Land Acquisition proceedings were taken up by the 2nd respondent, it was felt that an extent of Ac.1-13 Guntas would be sufficient for construction of Mandal Complex building and the surplus extent of Ac.2-33 Guntas from out of survey Nos.787/2 and 790/2 has been reverted back to the petitioners on 27-09-1991 with their consent.

However, this Court directed the respondents to produce the records through the Government Pleader. In spite of several adjournments, the records relating to this writ petition were not produced before this court and hence the matter has to be decided basing on the submissions in the Counter.

Even though the respondents have stated that the petitioners have voluntarily delivered the possession, there is no material available on the record to substantiate the above contention. In the absence of such material, it has to be held that the contention raised in the counter as to the extent of surrendering the land voluntarily to the respondents has no force. It is also to be observed that the submissions made in the counter are only to avoid the payment of compensation as envisaged under the Land Acquisition proceedings. There is no material placed before this Court to substantiate their contention that the notification under Section 4 (1) of the Land Acquisition Act has been issued for acquiring the said lands and in the absence of such material, it has to be observed that the respondents are liable to pay compensation to the petitioners herein for taking possession of the land of Ac.4-06 guntas, out of which Ac.2-33 Guntas were redelivered to the petitioners. Hence they are bound to pay the compensation from the date of taking of possession till the date of re-delivery i.e., from 09-09-1986 to 19-07-1991, for the total extent of Ac.4-06 guntas.

Under those circumstances, it would suffice, without specifying the amount of compensation, liberty is granted to the petitioners to make an application to the respondents for payment of compensation within a period of eight weeks from the date of receipt of a copy of this order and as and when such application is made, the respondents are directed to consider the same in accordance with law as expeditiously as possible.

Subject to the above condition, the writ petition is disposed of. No costs.

_____ 05-08-2004

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To

1.The Collector Warangal District, Warangal.
2.Revenue Divisional Officer Warangal.
3.Land Acquisition Officer (MRO) Devaruppula, Warangal dist.

4.Two CCs to GP for Revenue, High Court buildings, (OUT)

5. Two CD copies.